

**Notice of Allowability**

Application No.

09/761,782

Examiner

Kathleen M Kerr

Applicant(s)

LIVSHITS ET AL.

Art Unit

1652

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/12/03.
2. ☒ The allowed claim(s) is/are 1, 2, 4-17 and 19 *1, 2, 4-7, 9-17, and 19*.
3. ☒ The drawings filed on 29 August 2003 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                       | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____    |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. <u>8/29/03</u> | 7 <input type="checkbox"/> Examiner's Amendment/Comment                    |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material                    | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9 <input type="checkbox"/> Other _____                                     |

## **DETAILED ACTION**

### ***Application Status***

1. In response to the previous Office action, a final rejection (mailed on May 29, 2003), Applicants filed a request for continuing application (RCE) and an amendment received on August 29, 2003 and a supplemental amendment on November 11, 2003. Said amendments amended Claims 1, 4, 6, 7, 16, and 17 and cancelled Claims 8 and 18. Thus, Claims 1, 2, and 4-7, <sup>9</sup>8-17, and 19 are pending in the instant Office action and will be examined herein.

KK  
11/13/03

### ***Priority***

2. As previously noted, the instant application is granted the benefit of priority for the foreign application 2000101678 filed in Russia on January 26, 2000.

### ***Information Disclosure Statement***

3. The information disclosure statement filed on August 29, 2003 has been reviewed, and its references have been considered as shown by the Examiner's initials next to each citation on the attached copy.

### ***Drawings***

4. The drawings filed August 29, 2003 have been approved by the Draftsman and are acceptable for publication upon the indication of allowable subject matter.

***Withdrawn - Claim Rejections - 35 U.S.C. § 112***

5. Previous rejection of Claims 4-5 and 12-18 under 35 U.S.C. § 112, second paragraph, as being indefinite for the exact nature (sequence) of the claimed DNA is withdrawn by virtue of Applicants' amendment.
6. Previous rejection of Claims 1, 2, 6, 7, 8, 10, and 11 under 35 U.S.C. § 112, second paragraph, as being indefinite is withdrawn by virtue of Applicants' amendment.
7. Previous rejection of Claims 4-5 and 12-18 under 35 U.S.C. § 112, first paragraph, written description, is withdrawn by virtue of Applicants' amendment.

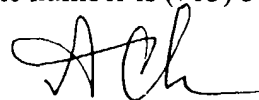
***Conclusion***

8. Claims 1, 2, and 4-7, <sup>9</sup>~~8~~-17, and 19 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Kerr whose telephone number is (703) 305-1229. The examiner can normally be reached on Monday through Friday, from 8:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathupura Achutamurthy can be reached on (703) 308-3804. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

  
PONNATHUPURA ACHUTAMURTHY  
SUPERVISOR, ART UNIT 1652  
TECHNICAL CENTER

KMK  
November 13, 2003

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11/13/03